

REMARKS

In the Office Action mailed February 10, 2004, claims 1, 4-6, 8-10, 17, and 19-22 were rejected. Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references.

SPECIFICATION

The disclosure is objected to because of an informality in paragraph [0009]. Applicants thank the examiner for pointing out the error, and have amended the specification accordingly.

Paragraph [0045] has been amended. Per M.P.E.P §608.01(l), "In establishing a disclosure, applicant may rely not only on the description and drawing as filed but also on the original claims if their content justifies it." Originally filed claim 3 applies the limitation "silicone" to the O-ring in the disclosure. The amendment, "which may be made from silicone." in paragraph [0045] of the disclosure adds the same limitation in the alternative. Because there is support for silicone in the originally filed claim 3, the amendment to paragraph [0045] of the specification does not constitute new matter.

Applicants therefore respectfully request withdrawal of the objections to the specification.

CLAIM OBJECTIONS

Claim 10 is objected to because of an informality. Applicants thank the examiner for pointing out the error, and have amended the claim accordingly.

The Examiner objected to claims 2, 3, 7, and 11-16 as being dependent upon rejected base claims, while noting they would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. Claims 2, 7, and 11-15 have been so rewritten. Claim 3 is dependent on claim 2, which has been amended herein to

overcome this objection. Claim 16 is dependent on claim 15, which has been amended herein to overcome this objection. The amendments presented herein do not change the scope of claims 2, 3, 7, and 11-16, so that claims 2, 3, 7, and 11-16 are entitled to their full scope both literally and under the doctrine of equivalents.

For at least the stated reasons, applicants respectfully request reconsideration and withdrawal of the objections to claims 2, 3, 7, and 11-16.

CLAIM REJECTIONS – 35 U.S.C. § 112

Claim 3 is rejected under 35 U.S.C. § 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants respectfully traverse this rejection.

The specification has been amended to provide proper antecedent basis for the subject matter of claim 3. The amendment to the specification does not constitute new matter because, per M.P.E.P §608.01(l), “In establishing a disclosure, applicant may rely not only on the description and drawing as filed but also on the original claims if their content justifies it.” Claim 3 applies the limitation “silicone” to the O-ring disclosed in paragraph [0045] of the disclosure. The amendment to paragraph [0045] of the disclosure adds the same limitation in the alternative.

Applicants further amend claim 3 to correct typographical errors having no effect on claim scope.

For at least the stated reason, applicants respectfully request that the rejection of claim 3 under 35 U.S.C §112 be withdrawn.

CLAIM REJECTIONS – 35 U.S.C. § 102(b)

Claims 1, 4, 5, 8-10, 17, 19, and 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Violi (5,367,605). Applicants respectfully traverse these rejections.

A § 102 rejection is proper only if each and every element as set forth in the claim is found—i.e., the prior art must teach every aspect of the claim. *See Verdegall Bros. v. Union Oil Co. of California* 918 F.2d 628, 631 (Fed. Cir. 1987); *see also MPEP* §2131. Claims 1, 19, and 21, and thus dependent claims 4, 5, 8-10, and 17 recite “a substantially rigid, generally tubular vessel located within the housing.” Applicants respectfully submit that Violi does not teach at least this aspect of the claim. Indeed, Violi does not teach or support a “substantially rigid … vessel”, but rather recites either a “wall 2 … deformable by flexion” (column 3, lines 49-50) or a “peripheral wall 28 which is flexible in concertina fashion” (column 7, lines 49-50), while “the deformable section 8 should preferably consist of” PTFE, fiber reinforced PTFE, Mylar®, or silicone rubber (column 8, lines 27-34), all of which are nonrigid materials.

Claims 20 and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Violi (5,367,605). Applicants incorporate the limitations of claim 20 into claim 19; claims 20 and 22 are canceled, rendering the rejections moot. Canceling of these claims does not constitute acquiescence to the Examiner’s rejection, but is done to further prosecution of this application. Applicants reserve the right to pursue the subject matter of these claims in this or another application.

Claims 1, 4, 9, 17, and 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Davies et al. (5,467,424). Applicants respectfully traverse these rejections.

A § 102 rejection is proper only if each and every element as set forth in the claim is found – i.e., the prior art must teach every aspect of the claim. *See Verdegall Bros. v. Union Oil Co. of California* 918 F.2d 628, 631 (Fed. Cir. 1987); *see also MPEP* §2131. Claim 1, and thus dependent claims 4, 9, and 17, recite “a substantially rigid, generally tubular vessel located within the housing.” Applicants respectfully submit that Davies et al. does not teach at least this aspect of the claim. Indeed, Davies et al. recites a multichamber vessel. For example, Davies et al. recites a “boiler chamber [that] has hemispherical end members” (column 3, lines 4-5) and is “coupled to an upper chamber 14” via a “perforate plate 42” (column 3, lines 34-36).

For at least these reasons, applicants respectfully request that the § 102 rejection of claims 1, 4, 9, 17, and 21 be withdrawn.

Claim 17 is amended to more particularly point out and define one embodiment of the applicants' invention.

Claim 22 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Davies et al. (5,467,424). Claim 22 is canceled, rendering the rejection moot. Canceling of this claim does not constitute acquiescence to the Examiner's rejection, but is done to further prosecution of this application. Applicants reserve the right to pursue the subject matter of this claim in this or another application.

CLAIM REJECTIONS – 35 U.S.C. § 103(a)

The Examiner rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Violi (5,367,605). However, claim 6 depends ultimately from claim 1, which is patentable, so claim 6 is patentable by reason of its dependency.

For at least this reason, applicants respectfully request that the § 103 rejection of claim 6 be withdrawn.

ALLOWABLE SUBJECT MATTER

The Examiner is thanked for indicating that claim 18 is allowable. A typographical correction has been inserted into claim 18. The amendment presented herein does not change the scope of the claim, so that the claim is entitled to its full scope both literally and under the doctrine of equivalents.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request the rejections of claims 1, 3-5, 8-10, 17, and 19 be withdrawn. Applicants also request that the objections to claims 2, 3, 7, and 10-16 be withdrawn. If, for any reason, the Examiner disagrees, please call the undersigned attorney at 202-861-1792 in an effort to resolve any matter still outstanding before issuing another action. The undersigned attorney is confident that any issue which might remain can readily be worked out by telephone.

In the event this paper is not timely filed, Applicant petitions for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036.

Respectfully submitted,

BAKER & HOSTETLER LLP



P. Alan Larson
Reg. No. 53,184

Date: 5/6/04
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
Telephone: 202-861-1500
Facsimile: 202-861-1783